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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/665,213 | 09/22/2003 | George Cannan | 22461.00 | 5730 |

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| EXAMINER |
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JIANG, CHEN WEN

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| ART UNIT | PAPER NUMBER |
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3744

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7/2/05

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|------------------------------|-----------------|--|----------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/665,213 | | CANNAN, GEORGE | |
| | Examiner | | Art Unit | |
| | Chen-Wen Jiang | | 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11-15 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-15 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/30/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). **In this case, canister can be used in freon recharging, aerosol dispensing and tire inflating as disclosed by Carter (6,382,469). For this reason, the combination of references of canister used in these fields are obvious to one having ordinary skill in the art at the time the invention was made. Although the charging refrigerant is an intended use and has no**

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bearing on the canister structure, both references of Carter et al. and Trachtenberg are disclosed for refrigeration system.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1,4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al. (U.S. Patent Number 6,382,469) in view of Trachtenberg (U.S. Patent Number 6,446,453).

Carter et al. disclose an actuator for dispensing the pressurized contents of a container through an upstanding valve stem having a discharge end. The actuator 10 may be used with containers having other contents, such as freon for recharging and other aerosol dispensing applications. The actuator 10 has a generally cylindrical body 18 having a central aperture 20 therethrough for receiving the upstanding valve stem 14 therein when the actuator is attached to the container 12, as shown in Figs. 1-6. The actuator 10 also has a finger tab 22 which is positioned across the central aperture 20 of the body 18 for actuating the valve 14 and receiving

the pressurized contents of the container 12 from the upstanding valve stem 16 upon actuation of the valve 14. The top 110 of the cylindrical portion 104 and the top 112 of the connecting rib portion 106 is formed integrally with the bottom 64 of the finger tab 22 formed by the finger tab conduit portion 114. As seen in Fig.3, the connecting rib 106 is also formed integrally with the inside surface 116 of the finger tab connecting portion 92 and the upright intermediate portion 86 of the actuator hinge 76. Fig.9 is a sectional view of the actuator shown in Fig.7 in locked activated position. Carter et al. disclose the hose connector 75 is a friction fit and securing that connection with a collar 77. Carter et al. also disclose that it should be understood that it is within the contemplation to use a wide variety of known connections between the discharge tube and discharge orifice (cost is not an issue). Trachtenberg discloses threaded connectors on one end and quick-connect on the other end in the same field of endeavor for the purpose of safer and more efficient connection. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Carter et al. with a threaded connector in view of Trachtenberg so as to have a safer and more efficient connection.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al./Trachtenberg as applied to claim 1 above, and further in view of Gonçalves (U.S. Patent Number 4,513,890) or Gross (U.S. Patent Number 6,269,986).

Carter et al./Trachtenberg disclose the invention substantially as claimed. However, Carter et al./Trachtenberg does not disclose hinged lid. Gonçalves (col.1, lines 32-35) and Gross (col.3, lines 9-10 and col.4, lines 33-35) disclose hinged lid in the same field of endeavor for the purpose of safety. Therefore, it would have been obvious to one having ordinary skill in the art

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at the time the invention was made to provide the apparatus of Carter et al. and Trachtenberg with a hinged lid in view of Goncalves or Gross so as to improve safety.

5. Claims 6,11-14,15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al. in view of Trachtenberg and further in view of Goncalves (U.S. Patent Number 4,513,890) or Gross (U.S. Patent Number 6,269,986).

Carter et al. disclose an actuator for dispensing the pressurized contents of a container through an upstanding valve stem having a discharge end. The actuator 10 may be used with containers having other contents, such as freon for recharging and other aerosol dispensing applications. The actuator 10 has a generally cylindrical body 18 having a central aperture 20 therethrough for receiving the upstanding valve stem 14 therein when the actuator is attached to the container 12, as shown in Figs.1-6. The actuator 10 also has a finger tab 22 which is positioned across the central aperture 20 of the body 18 for actuating the valve 14 and receiving the pressurized contents of the container 12 from the upstanding valve stem 16 upon actuation of the valve 14. The top 110 of the cylindrical portion 104 and the top 112 of the connecting rib portion 106 is formed integrally with the bottom 64 of the finger tab 22 formed by the finger tab conduit portion 114. The discharge tube 24 is removable. As seen in Fig.3, the connecting rib 106 is also formed integrally with the inside surface 116 of the finger tab connecting portion 92 and the upright intermediate portion 86 of the actuator hinge 76. Carter et al. disclose the hose connector 75 is a friction fit and securing that connection with a collar 77. A discharge tube 24 is provided having an actuator attachment end 26 for attachment to the actuator 10. Fig.9 is a sectional view of the actuator shown in Fig.7 in locked activated position. Carter et al. also disclose that it should be understood that it is within the contemplation to use a wide variety of

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known connections between the discharge tube and discharge orifice. Trachtenberg discloses threaded connectors on one end and quick-connect on the other end in the same field of endeavor for the purpose of safer and more efficient connection. Goncalves (col.1, lines 32-35) and Gross (col.3, lines 9-10 and col.4, lines 33-35) disclose hinged lid in the same field of endeavor for the purpose of safety. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Carter et al. with a thread/quick-connect in view of Trachtenberg and with a hinged lid in view of Goncalves or Gross so as to improve safety.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809.

The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

